IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

AMK CONVENIENCE LLC,	§	
	§	
Plaintiff,	§	
	§	
vs.	§ No	
	§	
WEST GUARD INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	
vs. WEST GUARD INSURANCE COMPANY,	•	

INDEX

Ехнівіт	DOCUMENT	FILED/ISSUED
1	Index	N/A
2	Docket Sheet	N/A
3	Original Petition, Jury Demand and Request for Disclosure	4/3/19
4	Clerk's Notice of Payment of Jury Fee	4/3/19
5	Service Request Form	4/4/19
6	Citation	4/8/19
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8	WestGUARD Insurance Company's Original Answer	4/29/19
9	Notice of Submission of Scheduling Order, or Alternatively Dismissal for Want of Prosecution	5/6/19

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Dated: May 7, 2019. Respectfully submitted,

/s/ Taylor F. Brinkman

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ATTORNEYS FOR WESTGUARD INSURANCE COMPANY

INDEX PAGE 2

FELICIA PITRE, DISTRICT CLERK

Case 3:19-cv-01096-N Docum**port 1:1** File 105/107/19 Page 4 of 26 PageID 8 Case No. DC-19-04768

AMK Convenience LLC

vs.

West Guard Insurance Company

\$ \$ \$ \$ \$ \$

Location: 160th District Court
Judicial Officer: REDMOND, AIESHA

Filed on: 04/03/2019

CASE INFORMATION

Case Type: CNTR CNSMR COM DEBT

PARTY INFORMATION

PLAINTIFF

AMK Convenience LLC

Lead Attorneys

HAMPTON, CARTER L

Retained 817-877-4202(W)

DEFENDANT

West Guard Insurance Company

Owner of AM Guard Insurance Company

BRINKMAN, TAYLOR F.

Retained

	Owner of AM Guard Insurance Company		Retained 214-740-8000(W)
DATE	Events & Orders of	THE COURT	INDEX
04/03/2019	NEW CASE FILED (OCA) - CIVIL		
04/03/2019	original petition		
04/03/2019	JURY DEMAND Party: PLAINTIFF AMK Convenience LLC		
04/04/2019	REQUEST FOR SERVICE		
04/04/2019	ISSUE CITATION ESERVE		
04/08/2019	CITATION West Guard Insurance Company Served: 04/08/2019 ESERVE		
04/09/2019	RETURN OF SERVICE EXECUTED CITATION - WEST GUARD INSURA	NCE COMPANY	
04/29/2019	ORIGINAL ANSWER - GENERAL DENIAL Party: DEFENDANT West Guard Insurance Com	pany	
06/25/2019	Scheduling Conference (3:00 PM) (Judicial Offi	cer: REDMOND, AIESHA)	
DATE	FINANCIAL	Information	
	PLAINTIFF AMK Convenience LLC Total Charges Total Payments and Credits Balance Due as of 5/7/2019		340.00 340.00 0.00
04/03/2019 04/03/2019	Charge CREDIT CARD - Receipt # 22134-2019-DCLK	PLAINTIFF AMK Convenience LLC PLAINTIFF AMK Convenience LLC	332.00 (332.00)
04/05/2019	TEXFILE (DC) Charge	PLAINTIFF AMK Convenience LLC	8.00

FELICIA PITRE, DISTRICT CLERK

Case 3:19-cv-01096-N Docum**p** 16 16 Page 5 of 26 Page D 9

CASE NO. DC-19-04768

04/05/2019 | CREDIT CARD - Receipt # 22771-2019-DCLK TEXFILE (DC)

PLAINTIFF AMK Convenience LLC

(8.00)

Case 3:19-cv-01096-N Document 1-1 Filed 05/07/19 Page 7 of 26 PageID 11

DC-19-04768

DALLAS COUNTY
4/3/2019 1:46 PM
FELICIA PITRE

Belinda Hernandez

AMK CONVENIENCE LLC Plaintiff,	\$ \$\phi_{\phi}\$\$	IN THE DISTRICT COURT
V.	\$	H-160TH JUDICIAL DISTRICT
WEST GUARD INSURANCE COMPANY, OWNER OF AM GUARD INSURANCE COMPANY	<i>\$</i> \$\tau\$ \$\tau\$ \$\tau\$	DALLAS COUNTY, TEXAS

CAUSE NO:

ORIGINAL PETITION, JURY DEMAND AND REQUEST FOR DISCLOSURE

NOW COMES, AMK CONVENIENCE LLC, (hereinafter referred to as "Plaintiff") and files this its original petition, Jury Demand and Request for Disclosures against West Guard Insurance Company, owner of AM Guard Insurance Company (hereinafter called "Defendant") and would show the Court as follows:

DISCOVERY - CONTROL PLAN

- 1. Plaintiff intends to conduct discovery under Level 3 of the Texas Rule of Civil Procedure.
- 2. Plaintiff seeks monetary relief over 200,000 but not more than 1,000,000 as well as attorney's fees, and exemplary damages.
- 3. Plaintiff is a Texas LLC in good standing.
- 4. <u>Defendant West Guard Insurance Company</u> is a for profit insurance company previously approved to transact business in Texas but has forfeited its charter but can be served with service of process by service upon its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136

BACKGROUND FACTS

5. On September 6, 2017 Plaintiff purchased an insurance policy from Defendant West Guard subsidiary AM Guard Insurance Company, Policy No. AMBP897900 to cover various losses including burglary. Plaintiff has made all premiums. In the early morning, during store closing time on August 21, 2018 the insured store location of 3943 S. Cockrell Hill Rd, Suite 200, Dallas,

Texas 75236 was broken into.

- 6. Police were called and the alarm system working resulted in over \$140,000 worth of cash and merchandise stolen from the premises.
- 7. Plaintiff made a claim shortly thereafter under Claim No. AMBP897900-001-001-001.
- 8. Defendant has failed to conduct a timely investigation. Defendant has simply come up with a new demand from Plaintiff at every turn and done nothing to resolve the claim in accordance with the laws of the State of Texas.

BAD FAITH

- 9. Plaintiff was an insured under ns insurance contract issued by Defendant which gave rise to a duty of good faith and fair dealing.
- 10. Defendant breached the duty by delaying and effectively denying payment of a covered claim when Defendant knew or should have known its liability under the policy was reasonably clear.
- 11. Defendant's breach of duty proximately caused injury to Plaintiff which resulted in unliquidated damages to Plaintiff. Such damages are within the jurisdictional limits of the Court.

BREACH OF CONTRACT

12. In the alternative and in addition to, Defendant's breached the contract with the Plaintiff by its failure to pay a claim by covered the insurance contract. Such breach was the proximate cause of damage to Plaintiff. Such damage is unliquidated and within the Courts jurisdiction.

EXEMPLARY DAMAGES

13. Plaintiff suffered injury independent file loss of policy benefits, and that injury resulted from Defendant's gross negligence and malice which entitles Plaintiff to exemplary damages under Texas Civil Procedure and Remedies Code Section 41.003(a)

ATTORNEY'S FEES

14. Plaintiff is entitled to recover reasonable and necessary attorney's fees under the provisions of the insurance policy as wells as the Texas Civil Practice and Remedies Code and the Texas Insurance Code.

JURY DEMAND

15. Plaintiff demands a jury trial and tenders the appropriate fee with this Petition.

REQUEST FOR DISCLOSURE

16. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose within fifty (50) days of the service of this request, the information or material described in Rule 194.2.

OBJECTION TO ASSOCIATE JUDGE

17. Plaintiff objects to the referred of this case to an associate judge for hearing a trial on the merits or presiding at jury trial.

PRAYER

For the reasons stated herein Plaintiff ask the Court to issue citation from the Defendant to appear and answer and that Plaintiff be awarded a judgment against the Defendant.

- a. Actual damages
- b. exemplary damages
- c. prejudgment interest and post judgment interest
- d. Cost of Court
- e. Attorney's fees
- f. All other relief to which Plaintiff may show its self entitled.

Respectfully submitted,

/S/ CARTER L. HAMPTON

CARTER L. HAMPTON
Texas State Bar No. 08872100
HAMPTON & ASSOCIATES, P.C.
1000 Houston Street, Fourth Floor
Fort Worth, Texas 76102

Telephone: (817) 877-4202 Facsimile: (817) 877-4204

clhampton@hamptonlawonline.com

ATTORNEY FOR PLAINTIFF



NINA MOUNTIQUE CHIEF DEPUTY

CAUSE NO. DC-19-04768

AMK Convenience LLC

VS.

West Guard Insurance Company owner of AM Guard Insurance Company

160th District Court

ENTER DEMAND FOR JURY

JURY FEE PAID BY: AMK CONVENIENCE LLC

FEE PAID: \$40.00

HAMPTON ★ ASSOCIATES

JAVIER HERNANDEZ

ATTORNEYS • COUNSELORS • MEDIATORS

CARTER L. HAMPTON Direct Dial: (817) 877-4202 clhampton@hamptonlawonline.com



Service Request form

April 4, 2019

Cause No: DC-19-04768

Style of case: AMK Convenience LLC v. West Guard Insurance Company, Owner of AM Guard **Insurance Company**

Title of Pleading: Original Petition, Jury Demand and Request for Disclsoure

Date of Pleading: 04/03/19

Return to (e-service Only): Carter L. Hampton email: clhampton@hamptonlawonline.com

Requesting one (1) citation it will be served by our private processor.

Name of Party to be served DEFENDANT:

West Guard Insurance Company owner of AM Guard Insurance Company, Registered Agent, CT Corporation System 1999 Bryan Street, Suite 900 Dallas, TX 75201-3136

Person Requesting Service:

Carter L. Hampton, Attorney at Law Hampton & Associates 1000 Houston Street, Fourth Floor Fort Worth, TX 76196

T: 817-877-4202 F: 817-877-4204

FORM NO. 353-3 - CITATION THE STATE OF TEXAS

To:

WEST GUARD INSURANCE COMPANY SERVING REGISTERED AGENT CT CORPORATION SYSTEM 1999 BRYAN ST STE 900 DALLAS TX 75201

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **160th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being AMK CONVENIENCE LLC

Filed in said Court 3rd day of April, 2019 against

WEST GUARD INSURANCE COMPANY OWNER OF AM GUARD INSURANCE COMPANY

For Suit, said suit being numbered <u>DC-19-04768</u>, the nature of which demand is as follows: Suit on **CNTR CNSMR COM DEBT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas. Given under my hand and the Seal of said Court at office this 8th day of April, 2019.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By Kari Maloc KARI MALONE

, Deputy



ESERVE

CITATION

DC-19-04768

AMK CONVENIENCE LLC VS.
WEST GUARD INSURANCE COMPANY

ISSUED THIS 8th day of April, 2019

FELICIA PITRE Clerk District Courts, Dallas County, Texas

By: KARI MALONE, Deputy

Attorney for Plaintiff
CARTER L HAMPTON
HAMPTON & ASSOCIATES PC
1000 HOUSTON ST
FOURTH FLOOR
FORT WORTH TX 76102
817-877-4202

clhampton@hamptonlawonline.com

DALLAS COUNTY.
SERVICE FEES
NOT PAID

OFFICER'S RETURN

Case No.: DC-19-04768						
Court No.160th District Cou	rt					
Style: AMK Convenience L	LC					
VS.						
West Guard Insurance Comp	oany					
Came to hand on the	day of	, 20	, ato'cl	lockM. Executed a	ıt	
				day of		
20, by del	ivering to the within named	i				
,				<u>.</u>		
each, in person, a true copy of	of this Citation together wit	h the accompanying copy	of this pleading, having	first endorsed on same date o	of delivery. The distance	e actually traveled b
me in serving such process v	asmiles and m	y fees are as follows: To	certify which witness n	ny hand.		
	For serving Citation	\$				
	For mileage	\$	·	County,		
	For Notary	\$	Ву		Deputy	
I.		(Must be verified it	f served outside the Stat	e of Texas.)		
Signed and sworn to by the s	aid	before me this	day of	, 20,	•	•
to certify which witness my	nand and seal of office.					
				w		
			Notary Public	County		

FILED
DALLAS COUNTY
4/9/2019 11:21 AM
FELICIA PITRE
DISTRICT CLERK
Daniel Macias

FORM NO. 353-3 - CITATION THE STATE OF TEXAS

To:

WEST GUARD INSURANCE COMPANY SERVING REGISTERED AGENT CT CORPORATION SYSTEM 1999 BRYAN ST STE 900 DALLAS TX 75201

GREETINGS

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 160th District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being AMK CONVENIENCE LLC

Filed in said Court 3rd day of April, 2019 against

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For Suit, said suit being numbered <u>DC-19-04768</u>, the nature of which demand is as follows: Suit on **CNTR CNSMR COM DEBT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas. Given under my hand and the Seal of said Court at office this 8th day of April, 2019.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By Kari Malore Deputy



ESERVE

CITATION

DC-19-04768

AMK CONVENIENCE LLC VS. WEST GUARD INSURANCE COMPANY

> ISSUED THIS 8th day of April, 2019

FELICIA PITRE Clerk District Courts, Dallas County, Texas

By: KARI MALONE, Deputy

Attorney for Plaintiff
CARTER L HAMPTON
HAMPTON & ASSOCIATES PC
1000 HOUSTON ST
FOURTH FLOOR
FORT WORTH TX 76102
817-877-4202

clhampton@hamptonlawonline.com
_____DALLAS COUNTY___
SERVICE FEES

NOT PAID

OFFICER'S RETURN

Case No.: DC-19-04768
Court No.160th District Court
Style; AMK Convenience LLC
vs.
West Guard Insurance Company Came to hand on the 8 day of April 20 19 at 1230 o'clock p .M. Executed at 1999 Aryes St. Swite 90 within the County of Doller at 1:53 o'clock p .M. on the 9 day of April 20 19 by delivering to the within named West Guard Insurance Company 45 Pla CT Corporation
each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
re in serving such process was miles and my fees are as follows: To certify which witness my hand.
(Must be verified if served outside the State of Texas.) Signed and sworn to by the said Medi A Dorberousefore me this S day of April 20 14.
to certify which witness my hand and scal of office.
MARIA A. PULIDO MONTH Public TX County Tarcot County Tarcot Notary Public TX County Tarcot Notary vb 130446746

DC-19-04768

Terri Kilgore

8	IN THE DISTRICT COLL

AMK CONVENIENCE LLC,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
vs.	§	DALLAS COUNTY, TEXAS
	§	
WEST GUARD INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	160th JUDICIAL DISTRICT

WESTGUARD INSURANCE COMPANY'S ORIGINAL ANSWER

Defendant, WestGUARD Insurance Company, answers the Original Petition filed by Plaintiff, AMK Convenience LLC ("AMK") as follows:

GENERAL DENIAL

WestGUARD generally denies all allegations in the Original Petition and demands strict proof thereof.

VERIFIED PLEAS

WestGUARD is not a proper defendant to this action because it is not a party to any insurance contract with AMK. AmGUARD Insurance Company, not WestGUARD, issued the policy under which AMK purports to sue.

PRAYER

WHEREFORE, WestGUARD prays that the Court, upon final trial and hearing of this action, enter judgment that AMK take nothing by its suit, that all relief that AMK prays for be denied, that WestGUARD recover all costs of court incurred herein, including

attorneys' fees if appropriate, and that WestGUARD be awarded such other and further relief; general and special, legal and equitable, to which it may show itself justly entitled.

Dated: April 28, 2019.

Respectfully submitted,

/s/ Taylor F. Brinkman

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tbrinkman@lockelord.com
junis@lockelord.com

ATTORNEYS FOR WESTGUARD INSURANCE COMPANY

CERTIFICATE OF SERVICE

I certify that on April 28, 2019, I served this document on Plaintiff's counsel of record via the TexFile service feature.

/s/ Taylor F. Brinkman

VERIFICATION

STATE OF PENNSYLVANIA §
LUZERNE COUNTY §

On this day, Nona F. Loftus appeared before me, the undersigned notary. After being duly sworn by me, she stated that she is P&C Claims Supervisor at Berkshire Hathaway GUARD Insurance Companies, she read the facts stated underneath the heading "Verified Pleas" in WestGUARD Insurance Company's Original Answer, and all of those facts are true and correct.

Nona F. Loftus

SWORN TO and SUBSCRIBED before me by Nona Lathus on this Alath day of April, 2019.

Notary Public's Signature

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

Erin Gardner, Notary Public
City of Wilkes-Barre, Luzerne County
My Commission Expires Aug. 8, 2020

MEMBER PENNSYLVANIA ASSOCIATION OF NOTARIES



IN THE DISTRICT COURT
OF DALLAS COUNTY
160TH JUDICIAL DISTRICT
DALLAS, TX 75202-4606
Chambers of JUDGE AIESHA REDMOND

5/6/2019

TAYLOR F. BRINKMAN LOCKE LORD LLP 2200 ROSS AVE SUITE 2800 DALLAS TX 75201

NOTICE OF SUBMISSION OF SCHEDULING ORDER, OR ALTERNATIVELY DISMISSAL FOR WANT OF PROSECUTION

CAUSE NO DC-19-04768

AMK Convenience LLC vs.
West Guard Insurance Company

In the District Court of Dallas County, Texas 160th Judicial District

The parties or their attorneys are ORDERED to appear for a scheduling conference hearing. The Court will hold a scheduling conference on the date and time indicated below. The Court prefers that counsel submit an Agreed Scheduling Order 3 business days in advance in lieu of attending the scheduling conference hearing. Upon receipt of the signed order, the hearing will be canceled. Scheduling conferences WILL NOT be rescheduled. The Court asks that you confer with opposing counsel, or litigant before the scheduling conference. The parties shall agree upon a mediator. Failure to agree upon a mediator will require all parties to appear for the scheduling conference.

The parties are ordered to confer before the conference.

IN THE EXERCISE OF THE COURT'S DISCRETION PURSUANT TO IT'S INHERENT POWER TO DISMISS CASES NOT DILIGENTLY PROSECUTED AND RULE 165A, Failure to submit an agreed signed scheduling order, will result in the dismissal of this case on the date and time indicated below.

The conference will not be required if the parties file an agreed scheduling order. One of the two Modified Uniform Scheduling Orders is attached. The date by which the case will be ready for trial (the "Initial Trial Setting") as indicated in the forms must be on a Monday not a holiday and must be in the following range: PLEASE USE AND SUBMIT THE ATTACHED MODIFIED UNIFORM SCHEDULING ORDER, LEVELS 1-2 or 3.

Level 1: 6-10 months out from the date of initial filing of the case Level 2: 12-15 months out from the date of initial filing of the case Level 3: 15-20 months out from the date of initial filing of the case

Scheduling Conference, or alternatively hearing for dismissal for want of prosecution: 06/25/2019 @ 3:00 PM.*

Sincerely,

/s/ Aiesha Redmond AIESHA REDMOND, JUDGE

two Redword



IN THE DISTRICT COURT
OF DALLAS COUNTY
160TH JUDICIAL DISTRICT
DALLAS, TX 75202-4606
Chambers of JUDGE AIESHA REDMOND

5/6/2019

CARTER L HAMPTON HAMPTON & ASSOCIATES PC 1000 HOUSTON ST FOURTH FLOOR FORT WORTH TX 76102

NOTICE OF SUBMISSION OF SCHEDULING ORDER, OR ALTERNATIVELY DISMISSAL FOR WANT OF PROSECUTION

CAUSE NO DC-19-04768

AMK Convenience LLC vs.
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Scheduling Conference, or alternatively hearing for dismissal for want of prosecution: 06/25/2019 @ 3:00 PM.*

Sincerely,

/s/ Aiesha Redmond AIESHA REDMOND, JUDGE

In Redword